



Jividen, Betsy &lt;betsy.jividen@wv.gov&gt;

**Fwd: Baxley v Jividen - Draft Consent order**

1 message

**Jividen, Betsy** <betsy.jividen@wv.gov>

Sun, Nov 7, 2021 at 5:26 PM

To: "Philip B. Sword" &lt;Philip.B.Sword@wvago.gov&gt;, "Sandy, Jeff" &lt;jeff.sandy@wv.gov&gt;

FYI.....

----- Forwarded message -----

From: **Jividen, Betsy** <betsy.jividen@wv.gov>

Date: Sun, Nov 7, 2021 at 5:24 PM

Subject: Re: Baxley v Jividen - Draft Consent order

To: Jay Arceneaux &lt;wjarceneaux@lewisglasser.com&gt;

CC: Anna Casto &lt;acasto@lewisglasser.com&gt;, Brad T Douglas &lt;brad.t.douglas@wv.gov&gt;, Marvin C Plumley &lt;marvin.c.plumley@wv.gov&gt;, Nowicki, Stacy L &lt;stacy.l.nowicki@wv.gov&gt;, Paul E Simmons &lt;paul.e.simmons@wv.gov&gt;, Valentino, William R &lt;william.r.valentino@wv.gov&gt;, Valerie H. Raupp &lt;vraupp@lewisglasser.com&gt;

This looks like a "policy" document, not a framework for any type of constructive agreement, no matter what it might be titled. We can talk more this week, but my cursory reading of it is that it is the outcome of the same type of underhanded tactics and misrepresentations we have come to expect from msj- they get an inch and claim we have given them the mile. The more I think about it, the more I am absolutely certain that this whole exercise was a complete and purposefully executed sandbag job by them. We should have all been wise to the fact that the only reason Dr. Venters would be coming into our facilities was a Covid inspection...that is what they brought him into the case for the first time, and they essentially- at least from my point of view in hindsight - "tricked" their way in under the pretense of the mental health exams for Baxley litigation and deliberately set us up for this latest sideshow. They are so obviously incapable of dealing in good faith and once again have proved it by their actions in this injunction litigation and now this document. We can discuss on Tuesday. Thanks!

On Fri, Nov 5, 2021 at 5:31 PM Jay Arceneaux <wjarceneaux@lewisglasser.com> wrote:

Attached is the draft consent order that I just received from Plaintiffs' counsel. I cursorily reviewed it but I did not spend any time on it. As I advised, if we would like, we can go back and forth next week and try and work out the proposed terms of the consent order. If we do not, we will have a hearing on the Emergency Motion the week of November 15.

Based on my last conversation with Stacy, I am uncertain as to what direction to take. Is there an interest in negotiating a consent order or not? Should I do a detailed review of this proposal or not? Should we just start preparing for a hearing the week of November 15?

Finally, If there is no interest in discussing terms of a consent order, what should we communicate to Plaintiffs' counsel regarding their proposal?

Please advise on how best to proceed and I hope everyone has a good weekend.

**Webster J. Arceneaux III****Member****Lewis Glasser PLLC**

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